

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of LARON RAYMONE LOVING,
Minor.

PEOPLE OF THE STATE OF MICHIGAN,

Petitioner-Appellee,

v

LARON RAYMONE LOVING,

Respondent-Appellant.

UNPUBLISHED

July 23, 2013

No. 309087

Wayne Circuit Court

Family Division

LC No. 09-488971-DL

Before: STEPHENS, P.J., and WILDER and OWENS, JJ.

PER CURIAM.

Respondent, a minor, appeals as of right an order placing him with the Michigan Department of Human Services (DHS) for care and supervision. Respondent pleaded no contest for the offenses of felonious assault, MCL 750.82, and larceny from a person, MCL 750.357. We affirm.

Respondent argues that the trial court abused its discretion in placing him with DHS. In support, respondent argues that the trial court erred in failing to specifically discuss on the record the factors under MCL 769.1(3). In addition, respondent argues the trial court should have placed him on intensive probation in his mother's home rather than placing him with DHS. Respondent's claims fail.

To properly preserve an alleged dispositional error, a respondent must raise the issue in the trial court. *People v Williams*, 245 Mich App 427, 430-431; 628 NW2d 80 (2001). Respondent failed to raise the alleged dispositional issue in the trial court. Therefore, this Court's review is limited to plain error affecting respondent's substantial rights. *Id.* This Court reviews a trial court's findings of fact at a juvenile disposition proceeding for clear error, and the ultimate decision for an abuse of discretion. *People v Brown*, 205 Mich App 503, 504-505; 517 NW2d 806 (1994).

Respondent's argument that the trial court abused its discretion because it failed to discuss on the record the factors under MCL 769.1(3) in sentencing respondent is without merit.

The Juvenile Code must “be liberally construed so that each juvenile coming within the court’s jurisdiction receives the care, guidance, and control, preferably in his or her own home, conducive to the juvenile’s welfare and the best interest of the state.” MCL 712A.1(3). See also MCR 3.902(B)(1). MCL 769.1(3) applies to instances where a juvenile is tried as an adult and the court must determine whether the juvenile should be sentenced as a juvenile or as an adult. See *People v Petty*, 469 Mich 108, 116-118; 665 NW2d 443 (2003); *People v Perry*, 218 Mich App 520, 542-545; 554 NW2d 362 (1996). In this case, respondent was tried and sentenced as a juvenile under MCL 712A.18(1), and there is no authority for the proposition that when one is tried and sentenced as a juvenile, the court must go through the factors in MCL 769.1(3). Thus, respondent’s argument is unfounded because the application of MCL 769.1(3) in this case is inappropriate.

Moreover, the trial court did not abuse its discretion in placing respondent with DHS for care and supervision pursuant to MCL 712A.18(1). Respondent argues that the trial court should have placed respondent on “intensive probation in the home of his parent with treatment.” However, placement of respondent with DHS was appropriate under MCL 712A.18(1)(e), which provides, in relevant part:

(1) If the court finds that a juvenile concerning whom a petition is filed is not within this chapter, the court shall enter an order dismissing the petition. Except as otherwise provided in subsection (10), if the court finds that a juvenile is within this chapter, the court may enter any of the following orders of disposition that are appropriate for the welfare of the juvenile and society in view of the facts proven and ascertained:

* * *

(e) Except as otherwise provided in this subdivision, commit the juvenile to a public institution, county facility, institution operated as an agency of the court or county, or agency authorized by law to receive juveniles of similar age, sex, and characteristics. If the juvenile is not a ward of the court, the court shall commit the juvenile to the department of human services or, if the county is a county juvenile agency, to that county juvenile agency for placement in or commitment to such an institution or facility as the department of human services or county juvenile agency determines is most appropriate, subject to any initial level of placement the court designates. . . .

Respondent pleaded no contest to felonious assault and larceny from a person. Respondent, with the assistance of another juvenile, struck the victim in the head and swung a glass bottle at the victim after the victim fell to the ground. Respondent and his accomplice took the victim’s cell phone, threw the glass bottle at the victim’s feet, and ran down an alley. The court noted that respondent was referred to outside services in 2009 for retail fraud and had a truancy from school. In addition, respondent’s mother stated that previous attempts at counseling and medication were unsuccessful. After respondent pleaded no contest, respondent’s mother explained that she “tried everything” and that “I want you home but I want treatment for you before you can come home[.]” Despite respondent’s and his mother’s requests for the court to give respondent “another chance to come home[.]” the trial court ordered respondent to be

placed with DHS. Given the nature of the crimes and unsuccessful attempts for counseling and medication, the trial court did not abuse its discretion in placing respondent with DHS for care and supervision because the placement was appropriate for the welfare of respondent and for society. See MCL 712A.18(1).

Affirmed.

/s/ Cynthia Diane Stephens

/s/ Kurtis T. Wilder

/s/ Donald S. Owens